

*DBI and B*

**IN THE CLAIMS**

**Please cancel claims 32-35, 56-66 and 74-76 and add new claims as follows:**

*46* 77. (New) A surgical staple as recited in claim *26*, further comprising a piercing implement removably joined to said first member. *22*

*47* 78. (New) A surgical fastener as recited in claim *26* wherein said first member includes a piercing end. *22*

**REMARKS**

In the last Office Action provided by the Examiner (paper no. 18), it was indicated that claims 1-76 are pending. Applicants believe, however, that only claims 1-16, 18, 19, 21-23 and 26-27, 29-42, 44-66 and 68-76 were pending, with claims 17, 20, 24 and 25 having been canceled in a Preliminary Amendment dated August 18, 1997 and claims 28, 43 and 67 cancelled in the Amendment dated October 28, 1999. Claims 32-35, 56-66 and 74-76 are cancelled herein.

With the addition of new claims 77 and 78 above covering the subject matter of previous claims 28 and 67, this leaves claims 1-16, 18, 19, 21-23, 26, 27, 29-31, 36-42, 44-55, 68-73, 77 and 78 currently pending. The Examiner has indicated that claims 1-16, 18, 19, 21-23, 26, 27, 29-31, 36, 44-49 and 69-73 are allowed. Applicants assert that claim 68 should be rejoined since it depends from allowed claim 26 which is generic to and links the species indicated by the Examiner. Likewise, Applicants assert that claims 50-55 should be rejoined since they depend from allowed claim 48 which is generic to and links the species indicated by the Examiner. Therefore, reinstatement of claims 50-55 and 68 in accordance with MPEP §§ 809.03, 809.04 or 818.03(d) is respectfully requested.

Upon such reinstatement and examination as required, it is thought the Examiner will find all the pending claims allowable. Should the Examiner have objection to the claims though, she is earnestly encouraged to contact the undersigned so any remaining issues may be addressed by telephone in order that a Notice of Allowability for the present application may be provided expeditiously.

IN CLOSING

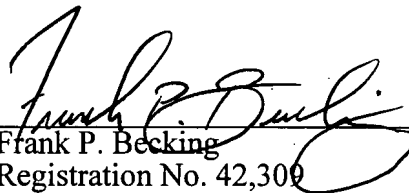
It is believed all matters of substance have been addressed and no further response is required.

In the unlikely event that the transmittal letter is separated from this document or the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 388402000900. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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